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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,116	02/27/2002	Udo Sohns	028-1-002	9904

27469 7590 12/06/2004

MALLINCKRODT & MALLINCKRODT  
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SALT LAKE CITY, UT 84111

EXAMINER


NGUYEN, CHI Q

ART UNIT PAPER NUMBER

3635

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/070,116	<b>Applicant(s)</b> SOHNS, UDO	
	<b>Examiner</b> Chi Q Nguyen	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 4,5,8,9 and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4,5,8,9 and 13-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Office action is in response to the applicant's amendment filed on 9/20/04.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/20/04 has been entered.

#### ***Claim Objections***

Claims 5, 8 and 9 are objected to because of the claimed preamble is inconsistent with the independent claim 13. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 14, 5, 8, 9, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloan (US 3,768,225) in view of Wilson (US 6,167,671).

In regard claims 13, 14, 5, 8, and 9, Sloan shows in figure 6, column 5, lines 52-60, two pre-cast elements 56, 58, each comprising a substantially rectangular

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configuration and at least one lattice girder 60 made of steel attached to the slab, the lattice girder having a top boom 64 spaced from the slab, the pre-cast elements arranged in a laterally reversed manner so that their slabs are situated parallel to and at a distance from one another and their lattice girders face one another, and the booms are connected by weld. The weld is serves as at least one transition piece extending rigidly and substantially horizontally between the top booms of the facing lattice girders to thereby attach the two pre-cast elements to one another to form a single prefabricated part, and a filled concrete material 28 is filled in a gap of the two slab elements.

Sloan does not teach specifically the two slab elements are concrete slabs. Wilson teaches prefabricated concrete wall form system having two rectangular concrete slabs 12, 14 (see fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to substitute Sloan's slab elements to Wilson's for concrete slabs. The motivation for doing so would have been to provide more rigidity for the wall system.

In regard claim 15, Sloan and Wilson teach the structural elements for the slab elements as stated. Sloan and Wilson do not teach expressly a method of forming a foundation as taught by the applicant, examiner considers this to be the obvious method of setting up and intended of use of a device because in forming a wall or a foundation, one must obviously position slab elements parallel to each other, attach lattice girders to the slab, attach top booms to lattice girder, which spaced from the slabs, connect two slabs to each other by a horizontal transition piece and fill concrete material in a space

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defined by the two slab elements. Sloan and Wilson would be motivated to follow these steps to form a wall or a foundation.

Claim 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Sloan in view of Wilson and further in view of Miller (US 5,771,648).

Sloan and Wilson teach the structural elements for the two pre-cast elements with lattice girder and top booms as stated. Sloan and Wilson do not teach expressly the transition piece is a flat or a round rod. Miller teaches foam form concrete system including at least one horizontal transition piece 30 is round and connecting two slab elements 22, 24 (fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Sloan and Wilson with Miller for the round transition piece. The motivation for doing so, it would have been to provide a larger space between the two slab elements thus provide a thicker wall.

### ***Response to Arguments***

Applicant's arguments with respect to claims 4, 5, 8, 9, and 13-15 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

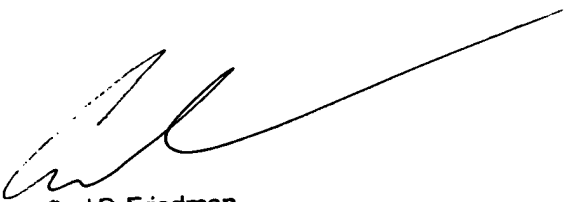
Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

1113  
*cn*

CQN  
11/30/04



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600